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January 8, 2003

ADVISORY OPINION NO. 2002-53

Mr. Robert M. Hill, Jr., L.L.C.
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Conflict Of Interest/Newly-Elected Member
Of Alabama Legislature Doing Business
With Alabama Housing Finance Authority.

A newly-elected member of the Alabama
Legislature may continue to do business
with the Alabama Housing Finance
Authority, as the Legislature has no direct
oversight of the Housing Finance Authority.

Should the newly-elected member of the
Alabama Legislature be appointed to the
Alabama Housing Finance Authority
Legislative Oversight Committee, it is
advised that he request an Advisory Opinion
on that specific issue.

Dear Mr. Hill:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a newly-elected member of the Alabama Legislature continue to do business with the Alabama Housing Finance Authority?

FACTS AND ANALYSIS

The facts as have been provided to this Commission are as follows:

B. Lynn Greer is a newly-elected member of the Alabama Legislature. He has been involved in financing and constructing multi-family housing projects as authorized under the provisions of Section 24-1A-1 et seq., Code of Alabama, 1975.

Since 1988, Mr. Greer has been involved in the development of 19 multi-family housing complexes, and there are three projects presently under construction.

The developer of these multi-family housing projects is Greer Investments, L.L.C., Lynn Greer being one of the four members of this limited liability company. On November 6, 2002, Lynn Greer was elected to the Alabama House of Representatives, House District Two.

The Alabama Housing Finance Authority was established to assist in the financing of multi-family and single-family dwelling units for citizens of low and moderate income. Its Board of Directors consists of the Director of Finance ex officio, the Superintendent of Banks ex officio, the State Treasurer, an appointee of the Governor from the state at large and two appointments each by the Speaker of the House and the Lieutenant Governor. There are also seven members who come from the various congressional districts within the State of Alabama.

A Legislative Oversight Committee provides recommendations to the Housing Finance Authority concerning the efficient operations of the Authority. This committee consists of seven members of the Alabama House of Representatives, one from each congressional district, appointed by the Speaker of the House, and seven members of the Alabama Senate, one from each congressional district, appointed by the Lieutenant Governor. The Governor, Lieutenant Governor, the Speaker of the House and/or their designated representatives serve ex officio on the Legislative Oversight Committee.

Except for the Legislative Oversight Committee, there is no interaction between the Alabama Legislature and the Alabama Housing Finance Authority.

The Alabama Housing Finance Authority is not contained as a line item in the State Budget, and employees of the Alabama Housing Finance Authority are not paid out of the State Budget.

The 19 multi-family housing complexes and the three projects presently under construction, all involve Mr. Greer's company dealing with the Alabama Housing Finance Authority.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

"(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."

Section 36-25-1(8) defines a conflict of interest as:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Based on the facts as provided and the above law, a conflict of interest does not exist for a newly-elected member of the Alabama Legislature to continue to do business with the Alabama Housing Finance Authority.

However, should the newly-elected member of the Alabama Legislature be appointed to the Legislative Oversight Committee, he should request an Advisory Opinion on that issue.

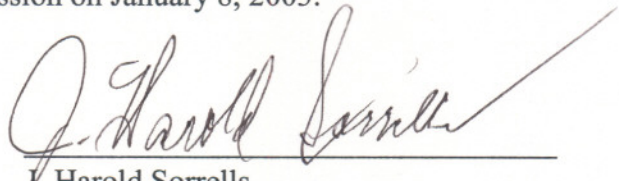
CONCLUSION

A newly-elected member of the Alabama Legislature may continue to do business with the Alabama Housing Finance Authority, as the Legislature has no direct oversight of the Housing Finance Authority.

Should the newly-elected member of the Alabama Legislature be appointed to the Alabama Housing Finance Authority Legislative Oversight Committee, it is advised that he request an Advisory Opinion on that specific issue.

AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on January 8, 2003.

A handwritten signature in dark ink, appearing to read "J. Harold Sorrells", is written over a horizontal line.

J. Harold Sorrells
Acting Chair in the absence of the Chair/
Vice-Chair
Alabama Ethics Commission